

REGISTER OF CLASSIFICATION DECISIONS

Date of entry in Register:	21 April 1999
Name of applicant/court:	Susan Monica Torlesse
Applicant to the Labelling Body:	Not Applicable
Title of Publication:	Untitled
Other Known Titles:	Not Stated
Director:	Not Applicable
Producer:	Not Applicable
Publisher:	Not Applicable
Author:	Not Applicable
Format:	Photograph
Country of Origin:	New Zealand
Language:	Not Applicable

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Components of film originally examined: Not Applicable.

Feature:	Running time:
Trailers:	Running time:
	Total Running time:

Excision/Alteration: Not Applicable.

Reason(s) for Excision:

Not Applicable.

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Classification Decision:

Objectionable except if the availability of the publication is restricted to the subjects depicted in the photograph and their parents or legal guardians.

Display Conditions:

Nil.

Descriptive Note:

Not Applicable.

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Direction to issue a label has been given on: Not Applicable

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SUMMARY OF THE REASONS FOR DECISION:

The untitled photograph is classified as:

Objectionable except if the availability of the publication is restricted to the subjects depicted in the photograph and their parents or legal guardians.

The black and white photograph measures approximately 23 cm wide by 17 cm high. The photograph is one of a total of 35 photographs submitted together. The image depicts a boy's pelvic area in close-up. He is viewed from the side-front. His genitals are emphasised by shading and texture contrasts. There is no body hair evident and the penis is circumcised. The image is grainy as if it has been enlarged, and the print has been plastic laminated.

The Classification Office consulted with an expert on Judaism and made extensive use of recently published reference works on Judaism. The owner-photographer's written submission on the photographs has been given significant weight in coming to a determination on this photograph. In coming to its decision the Classification Office has expressly considered the manner in which the boy has been photographed and the interpretations likely to be put on the image as a result. The Classification Office considers that, viewed outside the owner's intended context, the genital focus of the image may suggest a sexual interpretation to the uninformed viewer, and that making the photograph available to persons beyond the context in which it has been created and is intended to be used would be exploitative of the child subject.

The photograph is stated by the owner to have been part of an art installation about Jewish male circumcision, which is a very important and celebrated rite in Judaism. The image is of the photographer's own child. The evidence provided by the owner and the applicant when submitting the publications consistently points to the owner's interest in, and artistic exploration of, traditional and contemporary practices and issues in Judaism. The photograph may in such a context have some merit and value in relation to social and cultural matters. It is also difficult to imagine how a photographer might otherwise present the subject matter for artistic purposes, since to

cover the genitals or frame the image more broadly is to obscure the main topic for discussion or critique. However the Jewish context is not immediately apparent within the image, and the Classification Office is mindful that printed or electronic photographic images of this style that have come before it for consideration are generally sexual in character and are intended for such purposes.

Having considered this photograph under the criteria of the Films, Videos, and Publications Classification Act 1993 (FVPC Act) and the relevant provisions of the New Zealand Bill of Rights Act 1990, in the Classification Office's opinion its availability is likely to be injurious to the public good unless it is restricted to the child depicted and his parents or legal guardians, one of whom is also the photographer and owner of the photographs. That the image may be confrontational or offensive to some viewers is insufficient reason in itself to limit freedom of expression (unless there is associated with it some discernible likelihood of harmful disruption to 'the social contract'), since intent to confront viewers and provoke debate appears in this case to be part of artistic expression and exploration. However injury to the public good is likely to result from a wider availability, due to the exploitative use to which the image is likely to be put. In the Office's opinion this is a reasonable limit on freedom of expression consistent with the main aim of the FVPC Act to limit harm to society such as would arise from likely exploitative misuse of the photograph for prurient purposes.

OFLC Ref: 9801328